

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

[Lexon contact: Sandra Harper
Lexon address]

Re: Surety's Payment Bond Number: 1055284 for Principal, [MIMC]

Dear Ms. Harper:

I am addressing this letter to you as the signatory on behalf of Lexon Insurance Company ("Lexon" or "Surety") for the above-referenced Payment Bond. The Payment Bond was executed on June 16, 2010, as financial assurance for the performance of all Work and obligations required by [MIMC] ("Principal" or "MIMC") under the Administrative Settlement Agreement and Order on Consent for Removal Action entered into by the U.S. EPA, International Paper Company ("IP"), and MIMC dated May 11, 2010 ("Removal AOC").

Under the terms of the Removal AOC, IP and MIMC, as Respondents, are required to carry out the Work required by the AOC for the San Jacinto River Waste Pits Superfund Site ("Site"). The Respondents are required to establish and maintain financial assurance for the performance of their Work obligations through one or more of the forms provided for in the AOC. As indicated above, MIMC demonstrated financial assurance by providing the above-referenced Payment Bond for the benefit of U.S. EPA.

[Insert site-specific facts here: EPA has not certified completion of the Removal Action; by agreement of the Respondents, all Work on the Site is performed by contractors, hired and paid for by the Respondents, with the approval of U.S. EPA; etc.]

[Insert non-compliance facts here: on [date], MIMC notified U.S. EPA and/or IP that it would no longer participate in the Work at the Site; etc.]

Paragraph 2 of the Payment Bond provides in relevant part as follows:

[Insert relevant bond language here.]

Thus, the triggering event for the Surety's obligation under the Payment Bond is the failure by MIMC to perform all or any part of the activities that MIMC is required to perform under the AOC. As is noted above, such activities include the obligation to [insert site-specific facts here, like "finance and perform the Work at the Site"].

[MIMC's notice to U.S. EPA (if there was such notice) and failure to perform (or to pay Site costs now outstanding, etc.) constitutes the failure of MIMC to perform Work under the AOC, which includes the obligation to [finance and perform] the Work at the Site.]
[If MIMC is past due on site costs, you can insert something like "As of [date], MIMC

was in arrears in the amount of [\$xxxx] in paying its share of Site costs.] [Feel free to insert estimates here to support our need for the FA, maybe as follows: “EPA has reviewed the estimates of future removal costs at the Site and has concluded that the present worth estimate for the remaining work is [in excess of] \$[7] million, one half of which is MIMC’s share.]

MIMC’s failure to perform the Work under the AOC, as described above, triggers the obligation of Lexon under Paragraph 2 of the Payment Bond as set forth above. [Because the present value of MIMC’s share of the remaining Work [in addition to its overdue costs, if any] exceeds the [\$3,500,000] amount of the Payment Bond, Lexon is liable for the total amount of the bond.] [If you need to set up a special account feel free add a line like “EPA will be setting up a Superfund Special Account for the Site to receive the funds, which will be spent solely to cover MIMC's outstanding costs and future costs for Work at the Site.”]

[Per my e-mail, I am a bit stumped regarding what to do on timing. Paragraph 3 of the sample bond provides that the surety must render its payment within 15 days from the date of an EPA notification letter. Paragraph 2 of your bond suggests we may need to wait 90 days from the time MIMC stops performing Work at the site. By contrast, the RI/FS bond sets forth a condition precedent to the surety’s payment obligation by stating the surety is not obligated to perform under the bond until 30 days after it receives the EPA notification letter laying out the specifics of MIMC’s non-compliance. We may need to finesse the issue, say, as follows: “At this time we are asking you for confirmation of your intent to perform under Payment Bond 1055284 by paying the total dollar amount of the bond as required by Paragraph 2 of the Payment Bond.”]

If you have any questions regarding this notification, please contact Barbara Nann of the Office of Regional Counsel at

Sincerely,

[EPA signatory]